

United States  
Circuit Court of Appeals

For the Ninth Circuit. 7

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LOUIE WAH YOU,

Appellant,

vs.

JOHN D. NAGLE, as Commissioner of Immigration at the Port of San Francisco, California,

Appellee.

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Transcript of Record.

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Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, Second Division.

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FILED

FEB 8 - 1928

F. D. MONCKTON,  
CLERK.



United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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LOUIE WAH YOU,

Appellant,

vs.

JOHN D. NAGLE, as Commissioner of Immigration at the Port of San Francisco, California,

Appellee.

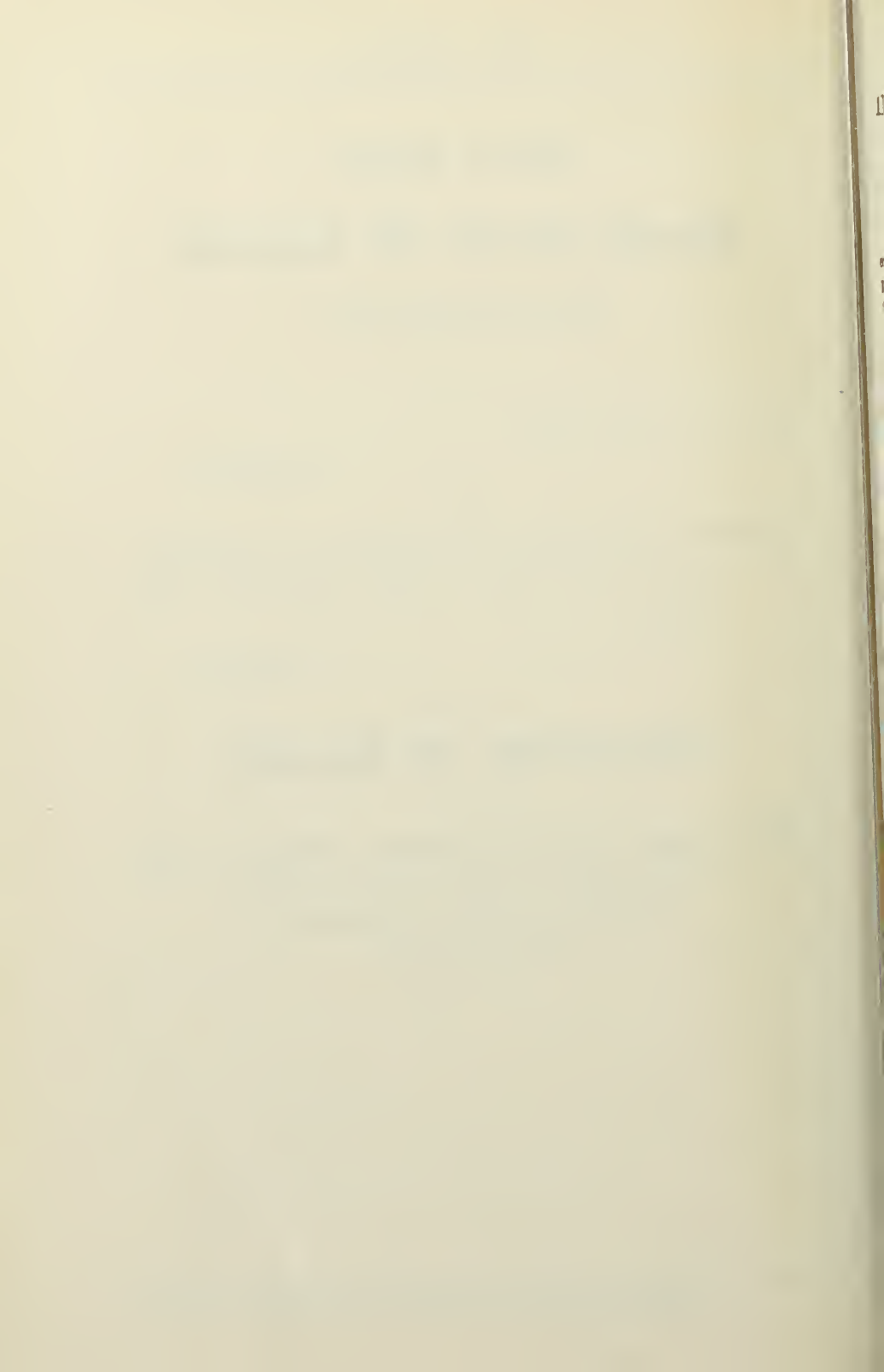
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Transcript of Record.

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Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, Second Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS  
OF RECORD.

For Petitioner and Appellant:

THOMAS J. RIORDAN, Esq., Hobart Bldg.,  
San Francisco, California.

For Respondent and Appellee:

U. S. ATTORNEY, San Francisco, California.

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In the Southern Division of the United States Dis-  
trict Court for the Northern District of Cali-  
fornia.

CLERK'S OFFICE.

No. 19,411.

In the Matter of LOUIE WAH YOU, on Habeas  
Corpus.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of Said Court:

Sir: Please prepare the transcript on writ of  
error to the Circuit Court of Appeals for the Ninth  
Circuit, and include therein the following papers,  
viz.:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Demurrer to petition.
4. Minute order of October 10, 1927, overruling  
demurrer to petition and granting writ.
5. Writ of habeas corpus.

6. Return to petition.
7. Order discharging writ.
8. Minute order of October 27, 1927, denying petition and remanding petitioner.
9. Notice of appeal, petition for appeal, assignment of errors.
10. Order allowing appeal.
11. Stipulation and order transmitting records.
12. Citation on appeal.
13. Praeceptum for transcript of record.

THOS. J. RIORDAN,  
Attorney for Petitioner.

[Endorsed]: Filed Jan. 19, 1928. [1\*]

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In the Southern Division of the United States District Court for the Northern District of California, Second Division.

No. 19,411.

In the Matter of LOUIE WAH YOU on Habeas Corpus (No. 26012/3-7 SS. "PRESIDENT PIERCE," June 30, 1927).

**PETITION FOR WRIT OF HABEAS CORPUS.**

To the Honorable, The Southern Division of the United States District Court, for the Northern District of California, Second Division:

The petition of Louie Choon respectfully shows:

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\*Page-number appearing at the foot of page of original certified Transcript of Record.



## I.

That your petitioner is a Chinese person and a native-born citizen of the United States and of the State of California, in which state he has been domiciled ever since his birth and is now the resident of the City of Sacramento in the Northern District of California.

## II.

That Louie Wah You, hereinafter called the detained, on whose behalf this petition is made, is a natural-born son of your petitioner, a native-born citizen of the United States, and as such is entitled to enter the United States as a citizen thereof.

That the said detained, Louie Wah You, is unlawfully imprisoned, detained, confined and restrained of his liberty by John D. Nagle, Commissioner of Immigration for the port of San Francisco at the Immigration Station at Angel Island, [2] County of Marin, State and Northern District of California; that said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit: That it is claimed by the said Commissioner that the said detained is a Chinese person and an alien not subject or entitled to admission into the United States under the terms and provision of the Acts of Congress of May 6, 1882, July 4, 1884, November 3, 1893, and the Act of Congress of April 29, 1902, as amended and re-enacted by Section 5 of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese

Exclusion or Restriction Acts; and that he, the said Commissioner, intends to deport *eh* said detained, Louie Wah You, away from and out of the United States to the Republic of China on the steamer "President Madison," sailing from the port of San Francisco, September 3, 1927.

That the said Commissioner claims that the said detained arrived at the port of San Francisco, on or about the 30th day of June, 1927, on the steamer "President Pierce," and thereupon made application to enter into the United States as a citizen of the United States by virtue of being the foreign-born son of your petitioner, Louie Choon, who is a native-born citizen of the United States, and that the application of the said detained to enter the United States as a citizen thereof by virtue of being the foreign-born son of a native-born citizen of the United States was denied by a Board of Special Inquiry convened at the Immigration Station, Angel Island, California; that appeal was thereupon taken from the excluding decision of the said Board of Special Inquiry to the Secretary of the Department of Labor and that the said Secretary thereafter dismissed the said appeal. [3] That *is* is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair hearing; that the action of the said Commissioner and the said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statutes in such cases made and provided and in

accordance with the regulations promulgated under the authority contained in the said statutes.

But, on the contrary, your petitioner, on his information and belief alleges that the hearing and proceedings had herein and the action of the said Board of Special Inquiry and the action of the said Secretary was and is in excess of the authority committed to them by the said statutes, and in several vital and important particulars they misconstrued and misinterpreted the law, and in this behalf your petitioner alleges:

I.

Your petitioner specifies that the evidence submitted upon the application of the said detained to enter the United States was of such a conclusive kind and character and was of such legal weight and sufficiency that it was an abuse of discretion on the part of the said Board of Special Inquiry and the said Secretary of Labor not to be guided thereby.

II.

That your petitioner is informed and believes and therefore alleges the fact to be that the said adverse decision of the said Board of Special Inquiry and the said Secretary of Labor is based solely upon a question of law, to wit: That your petitioner was married to Suey Ying in the State of California some time during the year 1903 and a short time thereafter he proceeded to China and was married to Toy Shee in 1904 and the detained being a natural son of the petitioner [4] by the

said Toy Shee, and Suey Ying being still alive and not divorced at the time of his said marriage to Toy Shee, the said Board of Special Inquiry and the said Secretary of Labor decided that the said detained was an illegitimate child, or bastard, and that such could not become a citizen of the United States under the provisions of Section 1993 of the Revised Statutes.

Your petitioner alleges upon information and belief, that the said Board of Special Inquiry and the said Secretary of Labor misconstrued and misinterpreted the law and that the said detained was and is a legitimate son of your petitioner under both the laws of China where the said detained was born and under the laws of the State of California where your petitioner has always held his domicile.

### III.

Your petitioner further alleges, upon information and belief, that the said Suey Ying was prior to her marriage to him in 1903 married to Low Chuck Sum and that she left said Low Chuck Sum and married your petitioner without having secured a divorce from the said Low Chuck Sum, and therefore that the said Suey Ying was never his lawful wife.

### IV.

Your petitioner further alleges upon information and belief, that the said Suey Ying secured a divorce from your petitioner in 1910, and thereafter, if not prior thereto, the said Toy Shee, mother

of the detained, became the lawful wife of your petitioner, her status as such having always since 1904 been respectfully recognized under the laws of the Chinese Republic, and your petitioner having always recognized her as his wife and maintained her as such, and has continued to do so to the present time, and the said detained was born to the said Toy Shee and your petitioner several years thereafter, to wit, on or about April 2, 1915. [5]

V.

Your petitioner further alleges, upon information and belief, that the Board of Special Inquiry and the Secretary of Labor misconstrued and misinterpreted the provisions of Section 1993 of the U. S. Revised Statutes and that the said detained is not an alien but a citizen of the United States under the provisions of Section 1993 of the U. S. Revised Statutes, even though the said detained be considered illegitimate, but as heretofore alleged by the petitioner, upon information and belief, the said detained is his legitimate blood son, and that the contrary ruling by the said Board of Special Inquiry and the said Secretary of Labor was erroneous and contrary to law, and that their action in denying the detained admission to the United States as a citizen thereof is a gross injustice, arbitrary, illegal and contrary to the letter and the spirit of the law.

That your petitioner has not in his possession any part of the record or testimony submitted upon the examination of the case of the said detained

under the direction of the said Commissioner of Immigration, nor any copy of the reports rendered thereon, nor copies of the proceedings had before the Secretary of Labor at Washington, and a copy of the said proceedings being in the possession of the said Commissioner, your petitioner does therefore stipulate that when a copy of the said Immigration record is brought before this Court and produced by the Immigration authorities, in accordance with their custom and practice in cases of this character, that your petitioner will then and there agree that the said Immigration record so presented be deemed and considered part and parcel of this petition, with the same force and effect as if filed herewith. [6]

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the Commissioner and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court, at a time and place to be specified in said order, together with the time and cause of his detention so that the same may be inquired into, all to the end that the said detained may be permitted to enter the United States and take up his residence therein as a citizen of the United States, having a lawful right to said privilege, and that he may thereafter go hence without day.

Dated at San Francisco, California, September, 1927.

A. G. BECKTELL,  
JOSEPH P. FALLON,

Attorneys for Petitioner and Detained Herein.

[7]

State of California,  
City and County of San Francisco,—ss.

Louie Choon, being first duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition; that he has heard read the said petition and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on his information and belief, and as to those matters, he believes it to be true.

LOUIE CHOON.

Subscribed and sworn to before me this 1st day of September, 1927.

[Seal] THOMAS S. BURNS,  
Notary Public in and for the City and County of  
San Francisco, State of California.

[Endorsed]: Filed Sep. 2, 1927. [8]

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[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

Upon reading the verified petition on file herein, it appears disputable whether detained is entitled to enter a question of law deserving consideration.

IT IS HEREBY ORDERED that John D. Nagle, Commissioner of Immigration for the Port of San Francisco, appear before this Court on the 10th day of Sept., 1927, at the hour of 10:00 o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein, as prayed for, and that a copy of this order be served upon the said Commissioner, and a copy of the petition and said order be served upon the United States Attorney for this District, his representatives herein.

AND IT IS FURTHER ORDERED, that the said John D. Nagle, Commissioner of Immigration, as aforesaid, or whoever, acting under the orders of the said Commissioner, or the Secretary of Labor, shall have the custody of the said Louie Wah You, or the Master of any steamer upon which he may have been placed for deportation by the said Commissioner, are hereby ordered and directed to retain the said Louie Wah You within the custody of the said Commissioner of Immigration, and within the jurisdiction of this Court until its further orders herein, provided, bond, \$500, be filed conditioned [9] to pay expenses and costs during detention.

Dated at San Francisco, California, Sept. 2, 1927.

BOURQUIN,

United States District Judge.

[Endorsed]: Filed Sep. 2, 1927. [10]



[Title of Court and Cause.]

DEMURRER TO PETITION FOR WRIT OF  
HABEAS CORPUS.

COMES NOW the respondent, John D. Nagle, Commissioner of Immigration at the Port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the hearing of the said applicant are conclusions of law and not statements of the ultimate facts.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

GEO J. HATFIELD,  
United States Attorney,  
By R. M. LYMAN, Jr.,  
Assistant United States Attorney,  
Attorneys for Respondent.

[Endorsed]: Filed Oct. 10, 1927. [11]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 10th day of October, in the year of our Lord one thousand nine hundred and twenty-seven. Present: The Honorable A. F. ST. SURE, Judge.

[Title of Cause.]

MINUTES OF COURT—OCTOBER 10, 1927—  
ORDER GRANTING WRIT OF HABEAS  
CORPUS.

The application for a writ of habeas corpus (by order to show cause) came on to be heard. The respondent filed a demurrer to the petition and filed Respondent's Exhibits "A," "B," "C," "D," "E," and "F," which said exhibits were, by consent, ordered made a part of the petition. Petitioner introduced certified copy of decree of divorce in case of Lai Sun Choy vs. Louie Quok. After argument, IT IS ORDERED that said demurrer be overruled, that the application be granted, and that a writ of habeas corpus issue, returnable October 22, 1927, at 10 A. M. [12]

[Title of Court and Cause.]

WRIT OF HABEAS CORPUS.

The President of the United States of America,  
to the Commissioner of Immigration, Port of  
San Francisco, Calif., Angel Island, California,  
GREETING:

YOU ARE HEREBY COMMANDED that you  
have the body of the said person by you imprisoned  
and detained, as it is said, together with the time  
and cause of such imprisonment and detention, by  
whatsoever name the said person shall be called or  
charged, before the Honorable A. F. St. Sure,  
Judge of the United States District Court for the  
Northern District of California, at the courtroom  
of said court, in the City and County of San Fran-  
cisco, California, on the 22d day of October, A. D.  
1927, at 10 o'clock A. M., to do and receive what  
shall then and there be considered in the premises.

AND HAVE YOU THEN AND THERE THIS  
WRIT.

WITNESS, the Honorable A. F. ST. SURE,  
Judge of the said United States District Court,  
and the seal thereof, at San Francisco, California,  
in said District, on the 11th day of October, A. D.  
1927.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

W. G. BECKTELL,

Attorney for Petitioner. [13]

## UNITED STATES MARSHAL'S RETURN.

I hereby certify and return that I receive this writ of habeas corpus on the 13th day of October, 1927, and personally served the same upon John D. Nagle, Commissioner of Immigration, at Angel Island, California, by mailing the same to the said Commissioner.

FRED L. ESOLA,  
United States Marshal.  
By Fred S. Field,  
Deputy.

[Endorsed]: Filed Oct. 13, 1927. [14]

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[Title of Court and Cause.]

## RETURN TO PETITION FOR WRIT OF HABEAS CORPUS.

COMES NOW John D. Nagle, Commissioner of Immigration at the Port of San Francisco, by C. W. Pierce, Law Officer of the Immigration Service at said Port, and in return to said petition for a writ of habeas corpus admits, denies and alleges as follows:

## I.

Denies that Louie Wah You is unlawfully detained and/or restrained of his liberty by the Commissioner of Immigration at the Port of San Francisco and/or by the Honorable John D. Nagle, as

such Commissioner at San Francisco in said Southern Division of the United States of the said Northern District of California or by any other person connected with the United States Government at any place or at all.

II.

Denies that Louie Wah You, hereinafter called the detained, is entitled to enter the United States as the natural born son of Louie Choon or for any other reason or at all.

III.

Denies that the alleged imprisonment and/or detention and/or confinement and/or restraint are or either of them is illegal for any reason set forth in the petition on file herein or otherwise or at all.

[15]

IV.

Denies that the hearing and/or proceedings had herein and/or the action of the Board of Special Inquiry upon the hearing of the detained and/or the action of the Secretary of Labor was and/or is in excess of the authority committed to them by the statutes referred to in said petition or for any other reason or at all and further denies that in several or any vital and/or important particulars they are any of them misconstrued and/or misinterpreted or at all.

V.

Alleges that the alleged facts of the petition disclose that the father of the detained who was an American citizen was married to one Suey Ying, in the State of California, in the year 1903 and that

shortly thereafter he proceeded to China and was married to one Toy Shee in 1904 and that the detained, Louis Wah You is the son of the alleged wife of the second marriage, namely Toy Shee, but denies that the detained was and/or is the legitimate son of Louis Choon under both or either the laws of China or under the laws of the State of California.

#### VI.

Denies upon lack of information and belief that the said Suey Ying was married to the father of the detained before having secured a divorce from a husband by prior marriage.

#### VII.

Denies upon lack of information and belief that the said Suey Ying secured a divorce from the father of the detained in 1910 and denies that thereafter or prior thereto or at all said Toy Shee, the mother of the detained, became the lawful wife of the father of the detained, and further denies that her status as such lawful wife was recognized under the laws of the Chinese Republic since 1904. Admits that the detained was born to the said Toy Shee on or about April 2, 1915. [16]

#### VIII.

Denies that the Board of Special Inquiry and/or the Secretary of Labor and/or misinterpreted the provisions of Section 1993 of the Revised Statutes and denies that the detained is a citizen of the United States under the provisions of the said Section 1993 of the United States Revised Statutes or

any revised statutes at all; and further denies that the action of the Board of Special Inquiry and/or the Secretary of Labor was erroneous and/or contrary to law and/or that their action or the action of either of them in denying the detained admission to the United States as a citizen thereof is a gross injustice and/or arbitrary and/or illegal and/or contrary to the letter and/or the spirit of the law.

IX.

Alleges that the said hearing as conducted, and the testimony and all evidence taken by the immigration officials and Secretary of Labor, acting for and on behalf of the Government, of the United States, have been recorded in the record known as the original record in the case of Louie Wah You of the Bureau of Immigration, and that the said testimony, evidence and all exhibits referred to, introduced and considered with the record are, by reference, incorporated into and made a part of this answer and return and filed herewith.

X.

Admits that the said detained is in detention, but denies that for this reason, or any reason, he is unable to verify said petition on his own behalf.

WHEREFORE, respondent prays that the writ of habeas corpus heretofore issued herein be discharged and the said Louie Wah You be remanded to the custody of respondent for deportation and

for such other and further relief as to this court may seem equitable and just. [17]

GEO. J. HATFIELD.

By R. M. LYMAN, Jr.

GEO. J. HATFIELD,

United States Attorney.

United States of America,  
Northern District of California,  
City and County of San Francisco,—ss.

C. W. Pierce, being first duly sworn, deposes and says:

That he is the Law Officer of the Immigration Service for the Port of San Francisco, and has been specially directed to appear for and represent the respondent, John D. Nagle, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts and knows the contents thereof; that of affiant's knowledge the matters set forth in the return to the writ of habeas corpus are true excepting those matters which are stated on information and belief, and that as to those matters he believes it to be true.

C. W. PIERCE.

Subscribed and sworn to before me this 21 day of October, 1927.

[Seal]

C. M. TAYLOR,

Deputy Clerk,

U. S. District Court Northern District of California.

[Endorsed]: Filed October 22d, 1927. [18]



At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Thursday the 27th day of October, in the year of our Lord one thousand nine hundred and twenty-seven. Present: The Honorable A. F. ST. SURE, Judge.

[Title of Cause.]

MINUTES OF COURT—OCTOBER 27, 1927—  
ORDER DISCHARGING WRIT AND RE-  
MANDING DETAINED.

This matter having been heretofore heard and submitted, being now fully considered, IT IS ORDERED that the writ of habeas corpus heretofore issued herein be and the same is hereby discharged, that the petition be denied, and that the detained be and he is hereby remanded to the custody of the United States Immigration Authorities at San Francisco, California, for deportation. [19]

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[Title of Court and Cause.]

ORDER DISCHARGING WRIT AND RE-  
MANDING DETAINED.

ST. SURE, D. J.—The above-entitled matter having been heard on the issuance of a writ of habeas corpus and the return thereto, and having been argued and submitted,—

IT IS ORDERED, after a full consideration, and upon the authority of the decision of the Circuit Court of Appeals for this Circuit in the matter of Ng Suey Hi vs. Luther Weedin, etc., Number 5238, filed October 10, 1927, that the writ of habeas corpus be discharged, the petition denied and the petitioner be, and he is, hereby, remanded to the custody of the United States Immigration Authorities at San Francisco, California, for deportation.

Dated: San Francisco, October 27, 1927.

[Endorsed]: Filed Oct. 27, 1927. [20]

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[Title of Court and Cause.]

#### NOTICE OF APPEAL.

To the Clerk of the Above-entitled Court, to JOHN D. NAGLE, Commissioner of Immigration at the Port of San Francisco, and to GEORGE J. HATFIELD, Esq., United States Attorney, his attorney:

You, and each of you, will please take notice that Louie Choon, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein October 27, 1927, denying the petition for a writ of habeas corpus filed herein.

JOSEPH P. FALLON,  
W. G. BECKTELL,  
Attorneys for Petitioner. [21]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Now comes Louie Choon, the petitioner in the above-entitled matter, and respectfully shows:

That on the 27th day of October, 1927, the above-entitled court made and entered its order denying the petition for a writ of habeas corpus as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, the appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors as complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals, for the Ninth Circuit thereof, and further, that the said appellant be held within the jurisdiction of this Court during the pendency of the appeal herein, so that they may be produced in execution of whatever judgment may [22] be finally entered herein.

Dated: San Francisco, California, November 4, 1927.

JOSEPH P. FALLON,  
W. G. BECKTELL,  
Attorneys for Petitioner.

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[Title of Court and Cause.]

### ASSIGNMENT OF ERRORS.

Now comes the petitioner, Louie Choon, through his attorneys, W. G. Beckett, Esq., and Joseph P. Fallon, Esq., and sets forth the errors he claims the above-entitled court committed in denying his petition for a writ of habeas corpus, as follows:

#### I.

That the Court erred in not granting the writ of habeas corpus and discharging the detained, Louie Wah You, from the custody of John D. Nagle, Commissioner of Immigration at the port of San Francisco.

#### II.

That the Court erred in holding that it had no jurisdiction to issue a writ of habeas corpus as prayed for in the petition herein.

#### III.

That the Court erred in holding that the allegations set forth in the petition for a writ of habeas corpus were insufficient in law to justify the granting and issuing of [23] a writ of habeas corpus.

IV.

That the court erred in holding that Louie Wah You was not or is not unlawfully imprisoned, detained, confined and restrained of his liberty by John D. Nagle, Commissioner of Immigration at the port of San Francisco.

V.

That the Court erred in holding that there was not an abuse of discretion on the part of the immigration officials in denying said Louie Wah You the right to enter the United States.

VI.

That the Court erred in not holding that the hearing or hearings accorded the said Louie Wah You by the said immigration officials was or were unfair.

VII.

That the Court erred in holding that the said Louie Wah You was not the legitimate son of Louie Choon, a native born citizen of the United States.

VIII.

That the Court erred in holding that the said Louie Wah You was not a citizen of the United States within the contemplation of Section 1933 of the United States Revised Statutes and entitled to be admitted to the United States.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California, made, given and entered herein in the office of the Clerk of said Court on the 27th day of October, 1927,

denying the petition for a writ of habeas corpus, be reversed and that the said Louie Wah You be restored to his liberty and go hence without day.

JOSEPH P. FALLON,  
W. G. BECKTELL,  
Attorneys for Petitioner. [24]

[Endorsed]: Received copies of the notice of appeal, petition for appeal, assignment of errors, stipulation for transmitting original exhibits, order transmitting original exhibits, order allowing appeal, and citation on appeal this 7th day of November, 1927.

GEO. J. HATFIELD,  
United States Attorney.  
(S.)

Filed: Nov. 7, 1927. [25]

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[Title of Court and Cause.]

#### ORDER ALLOWING APPEAL.

It appearing to the above-entitled court that Louie Choon, the petitioner herein, has this day filed and presented to the above court his petition praying for an order of this court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and order of this court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor,—

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and record in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Louie Wah You be and the same is hereby stayed pending this appeal, and that said Louie Wah You be not removed from the jurisdiction of this Court pending this appeal.

Dated: San Francisco, California, November 7, 1927.

A. F. ST. SURE,  
United States District Judge.

[Endorsed]: Filed Nov. 7, 1927. [26]

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[Title of Court and Cause.]

STIPULATION FOR TRANSMITTING ORIGINAL EXHIBITS TO APPELLATE COURT.

It is hereby stipulated and agreed by and between the respective parties in the above-entitled cause that the records of the Immigration Service and

certified copy of final decree of divorce, which was filed in the above-entitled court, and which were made a part of respondent's return to the petition for a writ of habeas corpus in said cause, may be transferred, in their original form and without being transcribed or copied, to the United States Circuit Court of Appeals for the Ninth Circuit, and the said records of the Immigration Service and certified copy of final decree of divorce are and may there be considered as a part of respondent's return to the said petition for a writ of habeas corpus, and the record in determining this cause on appeal to the said United States Circuit Court of Appeals for the Ninth Circuit, without objection on the part of either of the said respective parties.

Dated this 7 day of November, 1927.

JOSEPH P. FALLON,

W. G. BECKTELL,

Attorneys for Petitioner.

GEO. J. HATFIELD,

United States Attorney.

T. J. SHERIDAN,

Asst. United States Attorney,

Attorneys for Appellee. [27]

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[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL EXHIBITS TO APPELLATE COURT.

It appearing to the Court that it is both necessary and proper that the records of the Immigra-



tion Service and certified copy of decree of divorce referred to in the above stipulation should be inspected in the United States Circuit Court of Appeals for the Ninth Circuit, in determining the appeal of the said cause, the same having been filed and considered as stated in this Court,—

IT IS THEREFORE ORDERED that the said records and certified copy of decree of divorce be transferred in their original form by the Clerk of this court, the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, to be retained by said Clerk until the appeal in the above-entitled cause is properly disposed of, at which time the same are to be returned to the Clerk of the above-entitled court.

Dated this 7 day of November, 1927.

A. F. ST. SURE,  
United States District Judge.

[Endorsed]: Filed Nov. 7, 1927. [28]

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[Title of Court and Cause.]

#### SUBSTITUTION OF ATTORNEYS.

I hereby substitute Thomas J. Riordan in the place and stead of W. G. Beckett and Joseph P. Fallon as my attorney in the above-entitled matter.

Dated: January 20th, 1928.

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We hereby consent to the above substitution.

Dated: January 20th, 1928.

W. G. BECKTELL.

JOSEPH P. FALLON.

I hereby accept the above substitution.

Dated: January 20th, 1928.

THOMAS J. RIORDAN.

[Endorsed]: Filed Jan. 30, 1928. [29]

CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 29 pages, numbered from 1 to 29, inclusive, contain a full, true and correct transcript of the records and proceedings in the matter of Louie Wah You, on Habeas Corpus, No. 19,411, as the same now remain on file and of record in this office.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of eleven dollars and ninety-five cents (\$11.95) and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 30th day of January, A. D. 1928.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk. [30]

In the Southern Division of the United States District Court, for the Northern District of California, Second Division.

No. 19,411.

In the Matter of LOUIE WAH YOU, on Habeas Corpus—#26012/3-7 ex S S. “PRES. PIERCE,” June 30, 1927, Son of Native.

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, Port of San Francisco, and GEORGE J. HATFIELD, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within 30 days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, wherein Louie Wah You is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable, A. F. ST. SURE, United States District Judge for the Southern Di-

vision of the Northern District of California, this 7th day of November, 1927.

A. F. ST. SURE,  
United States District Judge. [31]

[Endorsed]: Filed Nov. 7, 1927.

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[Endorsed]: No. 5375. United States Circuit Court of Appeals for the Ninth Circuit. Louie Wah You, Appellant, vs. John D. Nagle, as Commissioner of Immigration at the Port of San Francisco, California, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, Second Division.

Filed January 30, 1928.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.